
(2012) 02 MP CK 0093
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 2300 of 2008

Rajesh Shukla and others

APPELLANT

Vs

State of M.P. and another

RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 197, 482

Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 — Section 11, 13

Penal Code, 1860 (IPC) — Section 392

Citation : (2012) 02 MP CK 0093

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Shri Justice Sujoy Paul

1. The brief facts necessary for adjudication of this matter are as under:
2. This petition filed u/s 482 of Cr.P.C. is directed against the complain filed by respondent No. 2. It is reported that respondent No. 2 has expired. An office note dated 02/04/2011 in this regard is also placed on record to show that respondent No. 2 has died. The petitioners are police personnels. A complain u/s 392 of IPC read with Section 11/13 of Madhya Pradesh Dacoit Evem Vyapharan Prabhavit Kshetra (for short, "MPDVPK Act"), 1986 was filed against the petitioners by respondent No. 2.
3. Learned counsel for the petitioners submits that respondent No. 2 was a history sheeter. His criminal record is filed at page No. 16 of the petition, which shows that respondent No. 2 was involved in about dozen of serious criminal cases. Learned counsel further submits that a bare reading of averments of complain shows that petitioners were in uniform and the alleged incident took place during the performance and discharge of their duties. Thus, u/s 197 of Cr.P.C., the sanction for prosecution ought to have been obtained before

proceeding with the matter. In this regard, he relied on various Supreme Court judgments reported in 2000 (7) ST 177 Abdul Wahab Ansari Vs. State of Bihar and another; 2006 (1) ST 14 Rakesh Kumar Sharma Vs. State of Bihar & others; 2008 (2) CAR 570 Anjani Kumar Vs. State of Bihar & another and 2004 (2) ST 757 State of Orissa through Kumar Raghvendra Singh and others Vs. Ganesh Chandra Jew. The two-fold submissions of learned counsel for the petitioners is as under:

1) Since, the allegations are arising out of official discharge of duties of the petitioners. The proceedings of complain without sanction is impermissible.

2) By placing reliance in Anjan Kumar's case (supra), it is stated that complaint is only a counter blast on the part of respondent No. 2 and the Court below has committed an error in taking cognizance against the petitioners.

4. Ms. Sangeeta Pachour learned Public Prosecutor for the respondent No. 1/ State has supported the case of the petitioners and stated that once respondent No. 2 is no more, no useful purpose would be served to permit the proceedings to continue.

5. I have heard learned counsel for the parties and perused the record.

6. As per office report, respondent No. 2 has already died. Admittedly, the alleged incident took place when petitioners were performing their official duties in full uniform. In absence of any rebuttal, it is clear that respondent No. 2 was facing a dozen of criminal cases.

7. In the opinion of this Court, it is clear that the whole complain is an attempt of counter blast on the part of respondent No. 2. He filed a complain against the petitioners as a measure of "counter blast". The Apex Court in Anjani Kumar's case (supra) has held that such prosecution cannot be permitted to stand. For the aforesaid cumulative reasons, I deem it proper to quash the proceedings before the Court below.

8. Accordingly, petition is allowed. The order dated 04/01/2008 impugned herein and also complain proceedings against the petitioners are quashed and set aside.

9. A copy of this order be sent to the concerned Court for information.